

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (*Firm Name, Address, and Telephone Number*) _____

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
 THE TRACT OF LAND INVOLVED.

Attorneys (*If Known*) _____

II. BASIS OF JURISDICTION (*Place an "X" in One Box Only*)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>

III. CITIZENSHIP OF PRINCIPAL PARTIES (*Place an "X" in One Box for Plaintiff and One Box for Defendant*)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (*Place an "X" in One Box Only*)

[Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	PERSONAL PROPERTY		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 485 Telephone Consumer Protection Act	
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 850 Securities/Commodities/ Exchange	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (*Place an "X" in One Box Only*)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (<i>specify</i>)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*): _____

VI. CAUSE OF ACTION

Brief description of cause: _____

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): _____

JUDGE _____

DOCKET NUMBER _____

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STATE STREET RESTAURANT GROUP, INC.	:
114 South State Street	: No.
Clarks Summit, PA 18411	:
	: JURY TRIAL DEMANDED
vs.	:
THE CINCINNATI CASUALTY COMPANY	:
(incorrectly designated THE CINCINNATI	:
INSURANCE COMPANIES)	:
6200 South Gilmore Road	:
Fairfield, OH 45014-5141	:
	:
and	:
ASSUREDPARTNERS OF NEW JERSEY, LLC,	:
d/b/a KINCEL & CO. (incorrectly designated	:
KINCEL & COMPANY, INC.)	:
200 Colonial Center Parkway,	:
Lake Mary, FL 32746.	:

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE SAID DISTRICT COURT OF THE UNITED STATES:

Petitioner, The Cincinnati Casualty Company (“CCC”), incorrectly designated as *The Cincinnati Insurance Companies*, respectfully represents:

1. On or about April 24, 2020, State Street Restaurant Group, Inc. (“State Street”) filed a Civil Action in the Court of Common Pleas of Lackawanna County, Pennsylvania, styled, *State Street Restaurant Group v. The Cincinnati Insurance Companies and Kincel & Company, Inc.*, No. 20-CU-2020 (“Complaint”). A copy of the Complaint including all exhibits is attached

as Exhibit 1. Exhibit A thereto, is a certain policy of insurance issued by CCC (not The *Cincinnati Insurance Companies*) to State Street.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because this Court's district encompasses the Court of Common Pleas of Lackawanna County, Pennsylvania.

3. CCC received a courtesy copy of the Complaint on April 30, 2020. To its knowledge the Complaint has not yet been served. CCC files this Notice of Removal within thirty (30) days from the date it first received a copy of the Complaint although service has not yet been made. This Notice of Removal is, therefore, timely filed pursuant to 28 U.S.C. § 1446(b).

4. Plaintiff State Street is citizen of the Commonwealth of Pennsylvania in that it is a limited liability corporation organized and existing under the laws of the Commonwealth of Pennsylvania and it maintains its principal place of business at 114 South State Street, Clarks Summit, PA 18411. Exhibit 1, Complaint at ¶1.

5. Defendant, CCC, is a corporation organized and existing under the laws of the State of Ohio and it maintains its principal place of business in Fairfield, Ohio. CCC is, therefore, a citizen of State of Ohio pursuant to 28 U.S.C. § 1332(c)(1).

6. On information and belief, Defendant Kincel & Company, Inc is a fictitious name registered in the Commonwealth of Pennsylvania by AssuredPartners of New Jersey, LLC. (“AssuredPartners”). (Exhibit 2). AssuredPartners is a New Jersey limited liability company. (Exhibit 3). See also entry of appearance being filed in the Lackawanna County Action on behalf of AssuredPartners of New Jersey, LLC d/b/a Kincel & Co. (Exhibit 4). Pursuant to 28 U.S.C. §1441(b) the “citizenship of defendants sued under fictitious names shall be disregarded.”

7. AssuredPartners maintains its principal place of business at 200 Colonial Center Parkway, Lake Mary, FL 32746. (Exhibit 5). AssuredPartners is, therefore, a citizen of a state other than the Commonwealth of Pennsylvania pursuant to 28 U.S.C. § 1332(c)(1).

8. In the Complaint, State Street seeks, inter alia, a declaratory judgment that a certain policy of insurance issued by CCC through AssuredPartners, an insurance agency, affords coverage for certain business losses sustained by State Street arising out of closure orders issued by the Commonwealth of Pennsylvania in connection with the Corona Virus Pandemic. It further alleges breach of contract by CCC and AssuredPartners and Bad Faith, pursuant to 42 Pa.C.S.A §8371 against CCC. Although the Complaint does not plead the precise amount of damages sought, stating only that plaintiff has incurred “substantial lost revenues” (Exhibit 1, Complaint ¶ 22) commencing March 17, 2020, the insured’s representative reported to CCC on March 19, 2020 that its losses were \$5,000 - \$6,000 per day. (Exhibit 6). Thus, on information and belief, CCC believes and therefore avers that the damages sought are in excess of the jurisdictional amount of \$75,000, exclusive of interest and costs.

9. The above-entitled action is a civil action over which this Court has subject matter jurisdiction under the provisions of 28 U.S.C. § 1332, as it involves citizens of different states and the matter in controversy exceeds \$75,000, exclusive of interest and costs. Consequently, removal of this action is appropriate under 28 U.S.C. § 1441(a).

10. Written notice of this Notice of Removal will be served on State Street and AssuredPartners promptly after the filing of this Notice of Removal, as is required by law.

11. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of Common Pleas of Lackawanna County, Pennsylvania, promptly after the filing of this Notice, pursuant to 28 U.S.C. § 1446(d).

12. Copies of the docket, all process, pleadings and orders served upon CCC (in addition to the Complaint) have been collectively attached to this Notice of Removal. (Exhibit 6)

13. AssuredPartners consents to this removal and joins in this Notice of Removal. (Exhibit 7).

WHEREFORE, Petitioner prays the instant action designated in the Lackawanna County Court of Common Pleas, at 20-CU-2000, be removed from the Court of Common Pleas, Lackawanna County, Pennsylvania to this Court for trial and determination.

Respectfully submitted,

LITCHFIELD CAVO LLP

BY: /s/ Lawrence M. Silverman

Lawrence M. Silverman, Esquire
Attorney I.D. No.: 17854
1515 Market Street, Suite 1220
Philadelphia, PA 19102
215-557-0111/Fax: 215-557-3771
silverman@litchfieldcavo.com

Attorneys for Defendant The Cincinnati Casualty Company

Date: May 19, 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STATE STREET RESTAURANT GROUP, INC.	:	
114 South State Street	:	No.
Clarks Summit, PA 18411	:	JURY TRIAL DEMANDED
vs.	:	
THE CINCINNATI CASUALTY COMPANY	:	
(incorrectly designated THE CINCINNATI	:	
INSURANCE COMPANIES)	:	
6200 South Gilmore Road	:	
Fairfield, OH 45014-5141	:	
and	:	
ASSUREDPARTNERS OF NEW JERSEY, LLC,	:	
d/b/a KINCEL & CO. (incorrectly designated	:	
KINCEL & COMPANY, INC.)	:	
200 Colonial Center Parkway,	:	
Lake Mary, FL 32746.	:	

CERTIFICATE OF SERVICE

I, Lawrence M. Silverman, Esquire, do hereby certify that a true and correct copy of Petitioner/Defendants' Notice of Removal pursuant to 28 U.S.C. §§ 1332 and 1441 was served by electronic mail, on this 19th day of May, 2020, upon the following:

Attorney for Plaintiff:
Marion Munley
Munley Law, P.C.
227 Penn Avenue
Scranton, PA 18503
Email: mmunley@munley.com

Attorney for Defendant, AssuredPartners:
Timothy G. Ventura, Esquire
2000 Market Street, Suite 2300
Philadelphia, PA 19103
Email: TGVentura@mdwcg.com

LITCHFIELD CAVO LLP

BY: /s/ Lawrence M. Silverman

Lawrence M. Silverman, Esquire

Attorney I.D. No.: 17854

1515 Market Street, Suite 1220

Philadelphia, PA 19102

215-557-0111/Fax: 215-557-3771

silverman@litchfieldcavo.com

Attorneys for Defendant,

The Cincinnati Casualty Company